

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DAVIS WINSTON,)	CASE NO.1:17CV1352
)	
Plaintiff,)	JUDGE CHRISTOPHER A. BOYKO
)	
Vs.)	
)	
CUYAHOGA METROPOLITAN)	OPINION AND ORDER
HOUSING AUTHORITY)	
)	
Defendant.)	

CHRISTOPHER A. BOYKO, J:

This matter is before the Court on Defendant Cuyahoga Metropolitan Housing Authority's ("CMHA") Motion to Dismiss. (ECF # 6). For the reasons set forth in the Court's Opinion and Order of March 15, 2018 in *Ray v. CMHA*, No.1:17CV324, the Court denies Defendant's Motion at this time but will revisit after supplemental briefing and oral arguments.

Plaintiff Davis Winston alleges that Defendant CMHA violated federal law by failing to include in its subsidy for low-income tenants who participate in the Housing Choice Voucher Program ("HCVP"), month-to-month or short terms fees charged by landlords to HCVP tenants. In *Ray v. CMHA*, Case No. 17-324, a nearly identical suit with generally the

same issues and arguments for and against dismissal involving the same counsel, the Court determined that subject matter jurisdiction was a question requiring additional briefing and oral argument in light of the Sixth Circuit decision in *Velez v. CMHA* 795 F.3d 578 (6th Cir. 2015). The Court's ruling in *Ray v. CMHA* involves the same issue presented in the above-captioned case concerning whether 42 U.S.C. 1437f(o) provides for a private right of action. As this issue must be addressed first, the Court denies CMHA's Motion at this time subject to revisitation after supplemental briefs and oral arguments.

Therefore, for the foregoing reasons, the Court denies CMHA's Motion to Dismiss subject to revisitation. The Court needs supplemental briefing by the parties on the interpretation and effect of the Sixth Circuit's decision in *Velez* concerning whether Winston has a private right of action under § 1437f(o). Therefore, the Court orders the parties to confer and submit to the Court no later than March 26, 2018, a joint proposed, expedited briefing schedule and dates for a hearing on the effect of *Velez* on Winston's private right of action. Because the legal issues in *Winston* mirror those in *Ray*, the Court will entertain both cases in a single hearing and the parties may submit one proposed schedule and hearing date for both *Ray* and *Winston*.

IT IS SO ORDERED.

s/ Christopher A. Boyko
CHRISTOPHER A. BOYKO
United States District Judge

Dated: March 16, 2018